

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JIMMIE STEPHEN,

No. C 14-4683 SI (pr)

Petitioner,

**ORDER DENYING POST-
JUDGMENT MOTION**

v.

K. CHAPPELL, Warden; et al.,

_____ /

Petitioner has filed a Rule 59(e) motion to alter or amend the judgment in this action. A motion for reconsideration under Federal Rule of Civil Procedure 59(e) "should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the law." *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (citation omitted) (en banc). Petitioner has not shown newly discovered evidence, clear error, or an intervening change in the law. Therefore, his motion to alter or amend the judgment is DENIED. (Docket # 5.)

A certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c). This is not a case in which "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural [rulings]" in the Order Of Dismissal or in this order. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The denial of the certificate of appealability is without prejudice to petitioner seeking a certificate from the United States Court of Appeals for

1 the Ninth Circuit.

2 IT IS SO ORDERED.

3 DATED: November 21, 2014



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SUSAN ILLSTON
United States District Judge